



**DEPARTMENT OF  
PLANNING AND ZONING  
STAFF REPORT**

**Date of Hearing:** October 8, 2014

**# 9**

**BOARD OF SUPERVISORS PUBLIC HEARING**

**SUBJECT:** **ZOAM 2014-0001, Kennels/Indoor Kennels**

**ELECTION DISTRICT:** Countywide

**CRITICAL ACTION DATE:** At the Pleasure of the Board

**STAFF CONTACTS:** Teresa H. Miller, Planner, Zoning Administration  
Nicole C.E. Dozier, Zoning Administrator  
Julie Pastor, FAICP, Director, Planning and Zoning

**PURPOSE:** The purpose of this application is to amend the additional regulations for Kennels/Indoor Kennels in the Revised 1993 Loudoun County Zoning Ordinance ("Zoning Ordinance") to (1) delete references to Chapter 808, Dog Kennels, of the Codified Ordinances of Loudoun County, which the Board of Supervisors repealed on June 11, 2014, (2) revise the number of animals that constitutes a kennel to be consistent with the Code of Virginia and 3) delete the PD-GI zoning district from the list of zoning districts that are subject to Section 5-606(C), which is intended to apply to non-suburban zoning districts and not Planned Development zoning districts.

**RECOMMENDATIONS:**

On September 16, 2014, the **Planning Commission** voted (9-0) to forward ZOAM 2014-0001 to the Board of Supervisors with a recommendation of approval.

**Staff** recommends the Board of Supervisors approve ZOAM 2014-0001.

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**SUGGESTED MOTIONS:**

1. I move that the Board of Supervisors forward ZOAM 2014-0001, Kennels/Indoor Kennels, to the October 15, 2014, Board of Supervisors **Business Meeting** for action.

OR

2a. I move that the Board of Supervisors **suspend the rules**.

AND

2b. I move that the Board of Supervisors **approve** ZOAM 2014-0001, Kennels/Indoor Kennels, as provided in Attachment 1 to the Staff Report for the Board of Supervisors' October 8, 2014, Public Hearing.

OR

3. I move an alternate motion.

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**I. EXECUTIVE SUMMARY**

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On July 16, 2014, the Board of Supervisors ("Board") adopted a Resolution of Intent to Amend [**Attachment 1**] the Revised 1993 Loudoun County Zoning Ordinance ("Zoning Ordinance") to amend Section 5-606, Kennels, to include the following:

- 1) Delete reference to Chapter 808 of the Loudoun County Codified Ordinances;
- 2) Amend Section 5-606(A)(1) to revise the number of animals that constitutes a kennel from six (6) to five (5) so that the definition of "kennel" is consistent with the Code of Virginia, and
- 3) Delete the PD-GI zoning district from the list of zoning districts that are subject to Section 5-606(C), which is intended to apply to non-suburban zoning districts and not Planned Development zoning districts.

The draft text is included as **Attachment 2**.

In conjunction with ZOAM 2014-0001, several administrative policy changes will be implemented.

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**II. BACKGROUND**

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On September 7, 1976, the Board adopted the "Dog Kennel Operation Ordinance", later renamed Chapter 808, Dog Kennels, of the Codified Ordinances of Loudoun County ("Chapter 808"), an ordinance regulated by the Department of Animal Services. Chapter

808 set forth a kennel permit process as well as minimum standards for proposed kennels. With the adoption of the 1993 Loudoun County Zoning Ordinance on June 16, 1993, Section 5-606, entitled Additional Regulations, Kennels, was established.

Pursuant to the Board's Strategic Plan to review ordinances regarding kennels, a staff committee consisting of the County Attorney's Office, County Administration, Zoning Administration, and the Department of Animal Services met to discuss options for streamlining the kennel permit process. Staff found that no other jurisdiction in the Commonwealth regulates kennels outside of the zoning process, and there was a question as to whether Chapter 808 exceeded statutory authority. The Committee identified a need to: 1) repeal Chapter 808 of the Codified Ordinances; 2) Revise the Zoning Ordinance definition of "kennel" to be in conformance with the Code of Virginia; and 3) ensure that all kennel applications meet legal requirements pertaining to the care and welfare of animals housed therein.

On March 14, 2014, the Transportation and Land Use Committee voted 3-0-2 (Supervisors Clarke and Higgins absent) to recommend that 1) the Board repeal Chapter 808, Dog Kennels, of the Codified Ordinances of Loudoun County, and 2) the Board direct Staff to proceed with amendments to Section 5-606 of the Revised 1993 Loudoun County Zoning Ordinance, as scheduled in the approved strategic plan.

At the June 11, 2014 Board of Supervisors Public Hearing, the Board voted (9-0) to repeal Chapter 808, Dog Kennels, of the Codified Ordinances of Loudoun County.

On June 11, 2014, ZOAG voted to support the text changes as proposed. Referrals were received from the Department of Planning, the Loudoun County Health Department, The Department of Building and Development Permit Division, the Department of Building and Development Engineering Division, and the Department of Fire, Rescue and Emergency Management. The referrals have been included as Attachment 3. These referrals did not include any additional suggested revisions to the draft text or objections to the proposed policy changes.

On July 16, 2014, the Board voted (8-0-1, Higgins absent) to adopt a Resolution of Intent to Amend the Revised 1993 Loudoun County Zoning Ordinance.

On September 16, 2014, the Planning Commission held a public hearing and voted 9-0 to forward the amendment to the Board of Supervisors with a recommendation of approval. There were no speakers at the hearing and the Commission proposed no changes to the draft language.

### **III. SUMMARY OF PROPOSED TEXT CHANGES**

The approved Resolution of Intent to Amend and the advertisement for the Planning Commission public hearing included the proposed draft text Attachment 2 which proposes the following changes to the Zoning Ordinance:

- Amend Section 5-606 to remove the reference to Chapter 808 of the Codified Ordinances of Loudoun County. The reference is not appropriate since July 11, 2014 when the Board repealed Chapter 808. Repealing Chapter 808 placed local regulation of commercial kennels under the Zoning Ordinance to streamline the review process.
- Amend Section 5-606(A)(1) to revise the number of animals that constitutes a kennel from six (6) to five (5). Aligning the local and State regulations removes a source of confusion among prospective kennel operators. The change does not impact existing kennels.
- Delete the PD-GI zoning district from the list of zoning districts that are subject to Section 5-606(C). Section 5-606(C) relates to non-suburban zoning districts and is not intended to include the suburban PD district.

#### **IV. SUMMARY OF ADMINISTRATIVE REVIEW CHANGES**

In conjunction with ZOAM 2014-0001, an administrative policy will be implemented to include the Department of Animal Services as a review agency for all kennel site plan application submissions to the Engineering Division of the Department of Building and Development. When an application for site plan is submitted for a kennel use, the Engineering Project Manager will provide Animal Services with a copy of the plans for review. Comments generated by Animal Services will be forwarded to the applicant along with the comments from other review agencies.

Prior to issuance of an occupancy permit for a kennel use, a final zoning inspection will be conducted by Zoning Enforcement. Once the final zoning inspection has been requested, in accordance with Department of Building and Development policy, such inspection will be conducted within 48 business hours. An administrative policy will be implemented by Zoning Enforcement to coordinate the final zoning inspection with Animal Services. This will allow Animal Services to inspect the kennel prior to operation to ensure compliance with all applicable laws and conditions.

Although Chapter 808 of the Loudoun County Codified Ordinances has been repealed, the Department of Animal Services will continue to regulate the care of animals pursuant to other sections of the Codified Ordinances as well as sections of the Virginia Comprehensive Animal Laws.

The Department of Planning and Zoning's current policy includes Animal Services as a review agency for all legislative applications for kennels, such as special exceptions and minor special exceptions, and such policy will continue to apply for all future applications.

Implementation of the new policy changes will be effective upon approval of ZOAM 2014-0001.

## **V. AGENCY REFERRALS**

### *ZOAG*

The Zoning Ordinance Action Group (ZOAG) acted as a referral agent for this application. Staff met with the full ZOAG on May 14, 2014, to discuss the changes proposed in the draft text. ZOAG requested time to review the proposed changes and recommended staff return to the next ZOAG meeting for further discussion on the amendment. On June 11, 2014, ZOAG voted to support the text changes as proposed.

### *PLANNING AND ZONING*

The Department of Planning and Zoning Land Use Review and Community Planning referrals identified no issues with the draft text and administrative changes as proposed.

### *BUILDING AND DEVELOPMENT*

The Engineering and Permits referrals had no objections to the draft text and supported the administrative policy changes as proposed.

### *HEALTH DEPARTMENT*

The Health Department referral had no issue with the proposed draft text or administrative policy changes.

### *FIRE AND RESCUE*

The Fire and Rescue referral also had no issue with the proposed draft text or administrative policy changes.

All referrals have been included as **Attachment 3**.

## **VI. SUMMARY OF OUTSTANDING ISSUES**

There are no outstanding issues associated with this zoning ordinance amendment.

## **VII. ZONING ORDINANCE CRITERIA FOR APPROVAL**

Section 6-1210(D), Text Amendments, of the Revised 1993 Loudoun County Zoning Ordinance states "...for an amendment of the text of this Ordinance, the Planning Commission shall consider the following matters:"

<u>Standard</u>	<i>Whether the proposed text amendment is consistent with the Comprehensive Plan.</i>
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Analysis As proposed, the text amendments intend to bring the Zoning Ordinance regulations regarding kennels up to date following the recent repeal of Chapter 808 of the Codified Ordinances of Loudoun County as well as align the definition of a kennel with that of the State of Virginia. The proposed text amendment is consistent with the Comprehensive Plan.

Standard *Whether the proposed text amendment is consistent with the intent and purpose of this Ordinance.*

Analysis The purpose and intent of this Zoning Ordinance is defined under Section 1-102, which states: "This Ordinance is enacted in order to promote the health, safety and welfare of the residents of Loudoun County and to implement the Loudoun County Comprehensive Plan." The amendment is consistent with the intent and purpose of the Zoning Ordinance.

## **VIII. DRAFT TEXT**

Draft text is included as **Attachment 2**.

<b>IX. ATTACHMENTS</b>		
<b>Attachment</b>		<b>Page</b>
1	Copy Teste/Resolution of Intent to Amend dated July 16, 2014	A1
2	Draft text	A3
3	Referrals	A5
*This Staff Report with attachments (file name BOSPH STAFF RPRT 10-08-14.PDF) can be viewed online on the Loudoun Online Land Applications System (LOLA) at <a href="http://www.loudoun.gov">www.loudoun.gov</a> . Paper copies are also available in the Department of Planning and Zoning.		



Loudoun County, Virginia

[www.loudoun.gov](http://www.loudoun.gov)

Office of the County Administrator

1 Harrison Street, S.E., 5th Floor, P.O. Box 7000, Leesburg, VA 20177-7000

Telephone (703) 777-0200 • Fax (703) 777-0325

At a business meeting of the Board of Supervisors of Loudoun County, Virginia, held in the County Government Center, Board of Supervisors' Meeting Room, 1 Harrison St., S.E., Leesburg, Virginia, on Wednesday, July 16, 2014 at 4:00 p.m.

IN RE: ZOAM 2014-0001/RESOLUTION OF INTENT TO AMEND THE REVISED 1993 LOUDOUN COUNTY ZONING ORDINANCE TO AMEND THE ADDITIONAL REGULATIONS OF SECTION 5-606, KENNELS/INDOOR KENNELS (COUNTYWIDE)

Mr. Buona moved that the Board of Supervisors adopt the Resolution of Intent to Amend the Revised 1993 Loudoun County Zoning Ordinance, provided as Attachment 1 to the Action Item for the Board of Supervisors July 16, 2014, Business Meeting, to implement ZOAM 2014-0001, Kennels/Indoor Kennels Amendments.

Seconded by Mr. Williams.

Voting on the Motion: Supervisors Buona, Clarke, Delgaudio, Letourneau, Reid, Volpe, Williams and York – Yes; None – No; Supervisor Higgins – Absent for the Vote.

  
DEPUTY CLERK FOR THE LOUDOUN  
COUNTY BOARD OF SUPERVISORS

(10-ZOAM 2014-0001/RESOLUTION OF INTENT TO AMEND THE REVISED 1993 LOUDOUN COUNTY ZONING ORDINANCE TO AMEND THE ADDITIONAL REGULATIONS OF SECTION 5-606, KENNELS/INDOOR KENNELS )

JULY 16, 2014

BOARD OF SUPERVISORS OF LOUDOUN COUNTY

**RESOLUTION OF INTENT TO AMEND THE  
REVISED 1993 LOUDOUN COUNTY ZONING ORDINANCE TO REVISE  
REGULATIONS IN REGARD TO KENNELS**

WHEREAS, the Board of Supervisors wishes to initiate amendments to the Revised 1993 Loudoun County Zoning Ordinance (the "Zoning Ordinance") in furtherance of the purposes of zoning as set out in §15.2-2283 of the Code of Virginia and to further implement the comprehensive plan; and

WHEREAS, the Board of Supervisors affirmed a strategic plan on October 16, 2013, and reaffirmed that strategic plan on June 4, 2014, which strategic plan included a review of ordinances regarding kennels, specifically the Codified Ordinances of Loudoun County and the Zoning Ordinance; and

WHEREAS, the Board of Supervisors approved the repeal of Chapter 808, Dog Kennels, of the Codified Ordinances of Loudoun County on June 11, 2014; and

WHEREAS, the Board of Supervisors wishes to initiate amendments to Article 5 of the Zoning Ordinance to revise the Additional Regulations for Kennels/Indoor Kennels so that such regulations are in conformance with the Code of Virginia.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors states its intention to amend the Revised 1993 Loudoun County Zoning Ordinance as follows:

1. Amend Section 5-606, Kennels/Indoor Kennels, to delete the reference to Chapter 808 of the Codified Ordinances of Loudoun County; and
2. Amend Section 5-606(A)(1), Kennels, General, to revise the number of animals that constitutes a kennel, and other standards, so that the definition of, and regulations in regard to, kennels are in conformance with the Code of Virginia; and
3. Amend Section 5-602(C), Kennels in AR, TR, PD-GI and JLMA Districts, to delete the PD-GI zoning district from the list of zoning districts that are subject to the standards of Section 5-602(C); and
4. Amend such other sections of the Zoning Ordinance as may be necessary to fully implement and maintain consistency with the foregoing amendments, to correct typographical errors and update references, and to achieve the full intent of this Resolution; and

BE IT FURTHER RESOLVED, that (1) these amendments are in furtherance of the public necessity, convenience, general welfare, and good zoning practice; (2) Staff is directed to prepare draft amendments for consideration; and (3) the proposed amendments on these matters be brought forward for notice, hearing, Planning Commission recommendation, and Board of Supervisors' action.



## Section 5-600

**Additional Regulations for Specific Uses.** The following additional regulations apply to specific uses as set forth below. These regulations are intended to serve as the minimum standards for these uses, and are not intended to be in substitution for other provisions of this ordinance that may apply, or for additional conditions that may be imposed in connection with special exception or rezoning approvals. Unless otherwise specified, the following additional regulations may be modified by Minor Special Exception in accordance with the provisions of Section 6-1300. Modifications may be approved by the Board of Supervisors upon a finding that such modification to the regulations will achieve an innovative design, improve upon the existing regulations, preserve the County's historic or archeological heritage, or otherwise exceed the public purpose of the existing regulation. No modification shall be granted to any of the underlying zoning district regulations.

### 5-606

**Kennels/Indoor Kennels.** ~~Nothing herein shall relieve a kennel from complying with the provisions of Section 808 of the Codified Ordinances of Loudoun County.~~ **For the purposes of this Ordinance, the following words and phrases shall have the meanings respectively ascribed to them by this Section:**

#### (A) Kennels.

- (1) **General.** Kennel shall mean any place in or at which, for a fee, ~~six-five (5)~~ or more dogs, cats, or other household pets over the age of six months are trained, boarded, including day care services, or handled.
- (2) **Not Applicable to Animal Hospital/Grooming Use.** This Section shall not apply to any establishment whose principal use is grooming or any animal hospital.

#### (B) Indoor Kennel.

- (1) **General.** Indoor kennel shall mean any place that is within a completely enclosed commercial facility with no outdoor activity in which dogs, cats or other household pets are confined or penned in close proximity to each other, except for the primary purpose of grooming, or wherein any owner engages in boarding, breeding, letting for hire, training for a fee, or selling dogs, cats, or other household pets.
- (2) **No Opening to Outside.** Indoor Kennels shall not be housed in a structure with any opening to the outside except required ingress/egress and ventilation equipment, shall have an animal waste handling plan, and shall conform to any other requirements that the Planning Commission and/or Board of Supervisors may impose pursuant to special exception review (Section 6-1300).

- (3) **Accessory Uses.** Indoor Kennels may include accessory uses to an indoor kennel: up to 10% of gross floor area for retail sales, up to 10% of gross floor area for veterinary service, up to 10% of gross floor area for animal hospital, and up to 10% of gross floor area for grooming; provided, however, that accessory uses may not exceed 25% of the total gross floor area.

(C) **Kennels in AR, TR, ~~PD-GI~~ and JLMA Districts.** Kennels in the AR, TR, ~~PD-GI~~ and JLMA districts shall comply with the following standards.

- (1) **Location on Site/Dimensional Standards.** An outdoor kennel shall be set back 100 feet from a lot line.
- (2) **Roads/Access.**
  - (a) All kennels shall comply with the road access standards of Section 5-654.
  - (b) There shall be no more than one point of access from a kennel to a public road. This requirement shall not preclude an additional access for emergency vehicles only.
- (3) **Landscaping/Buffering/Screening.**
  - (a) The use shall comply with the landscaping and screening standards of Section 5-653(A).
  - (b) Parking areas shall be screened to comply with the requirements of Section 5-653(B).
- (4) **Exterior Lighting Standards.** All exterior lighting shall comply with the standards of Section 5-652(A) (Exterior Lighting Standards).
- (5) **Noise.** The maximum allowable dB(A) level of impulsive sound emitted from the use, as measured at the property line, shall not exceed 55 dB(A).
- (6) **Parking.**
  - (a) **General.** Parking and loading shall be provided as required by Section 5-1102.
  - (b) **Surface.** All parking areas serving the use shall use a dust-free surfacing material as provided in the Facilities Standard Manual.

## Miller, Teresa

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**From:** Armstrong, Van  
**Sent:** Monday, May 12, 2014 2:37 PM  
**To:** Miller, Teresa  
**Subject:** RE: ZOAM-2014-0001 Kennels/Indoor Kennels

Teresa – I have reviewed your referral received May 12, 2014 for a ZOAM for Kennels/Indoor Kennels. I see no issues with the amendment from a legislative application perspective and have no further comments to provide. Thank you for the request to review. Van

Van Armstrong, AICP

Program Manager, Loudoun County Planning Department  
(703) 777-0653

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**From:** Miller, Teresa  
**Sent:** Monday, May 12, 2014 1:17 PM  
**To:** Clare, Gary; Edmonds, Laura; Zimmerman, Barbara; Keim, Marsha; Hobbie, Jason; Koenig, Thomas; Mosurak, Lou; Salinas, Michael; Taylor, Maria; Lock, Joe; Keegan, Cynthia; Armstrong, Van; Depo, Mark  
**Cc:** Yudd, Charles; Young, Kenny; Brown, Ron; Rizer, Buddy; Pastor, Julie; Merrithew, John E.; Seigfried, Mike; Dozier, Nicole; Lohr, Michelle; Stultz, Mark  
**Subject:** ZOAM-2014-0001 Kennels/Indoor Kennels

For your records, please see the included request for referral and draft text attachments which are being distributed today.

Let me know if you have any questions.

Thanks  
Teresa

Teresa Miller, CZA  
Planner, Dept Building and Development  
703-737-8787

This e-mail is not intended to be and shall not be deemed to be an official order, requirement, decision or determination made by or on behalf of the Zoning Administrator.

**Miller, Teresa**

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**From:** Carter, Joseph  
**Sent:** Monday, June 02, 2014 9:36 AM  
**To:** Miller, Teresa  
**Cc:** Keegan, Cynthia  
**Subject:** ZOAM-2014-0001 Kennels/Indoor Kennels

I have reviewed the aforementioned ZOAM on behalf of the Community Planning Division. Staff doesn't have any comments.

Thank you.

**Joseph Carter, AICP, CZA, GISP**  
***Senior Planner***  
**LOUDOUN COUNTY PLANNING DEPARTMENT**

**This e-mail is not intended to be and shall not be deemed to be an official order, requirement, decision or determination made by or on behalf of the Zoning Administrator.**

**COUNTY OF LOUDOUN**

**DEPARTMENT OF BUILDING AND DEVELOPMENT**

**MEMORANDUM**

TO: Theresa Miller, Planner, Zoning Administration  
FROM: Hector E. Martinez, P.E. Engineering *H. Martinez*  
DATE: May 30, 2014  
RE: ZOAM-2014-0001, Amendments to ZO, Kennel/Indoor Kennels

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I have reviewed the referenced draft amendment. I have no objections from engineering to their adoption as currently drafted.

Any comments in the Environmental Review Team shall be forwarded under separate cover.

If you have any further questions, contact me at 703-771-5321 or [hector.e.martinez@loudoun.gov](mailto:hector.e.martinez@loudoun.gov).

**COUNTY OF LOUDOUN**  
**DEPARTMENT OF BUILDING AND DEVELOPMENT**  
**MEMORANDUM**

**DATE:** May 16, 2014

**TO:** Teresa H. Miller, Planner, Zoning Administration

**FROM:** Barbara Zimmerman, Assistant Director for Permit Issuance & Administration

**SUBJECT:** ZOAM-2014-0001, Amendments to the Zoning Ordinance-Kennels/Indoor Kennels Referral

Thank you for the opportunity to comment on the proposed revisions to ZOAM-2014-0001, Amendments to the Zoning Ordinance, Kennels/Indoor Kennels.

The changes as proposed will provide consistency with State law and allow for staff coordination with the Department of Animal Control. The suggested revision to the administrative policy to coordinate final zoning inspection with Animal Control staff can be easily accommodated within the process without lengthening the time for securing the occupancy permit.

**Miller, Teresa**

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**From:** Lock, Joe  
**Sent:** Tuesday, June 03, 2014 6:45 AM  
**To:** Miller, Teresa  
**Subject:** RE: Kennel Referral

I didn't really have much to say about the kennel ZOAM. It appeared ok.

Joe

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## Miller, Teresa

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**From:** Taylor, Maria  
**Sent:** Tuesday, June 17, 2014 11:34 AM  
**To:** Miller, Teresa  
**Subject:** ZOAM 2014-0001 Kennels/INdoor Kennels

Teresa,

Thank you for the opportunity to review the above captioned application. The Fire and Rescue Planning Staff has no comments. Let me know if you have any questions.

Maria

Maria Figueroa Taylor  
Fire-Rescue Planner  
Department of Fire, Rescue and Emergency Management  
801 Sycolin Road, Suite 200  
MSC # 61  
Leesburg, VA 20175

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